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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/838,949 | 04/19/2001 | Elia Rocco Tarantino | ZDICE.0017P | 1704 |

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WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS, NV 89128

EXAMINER

WHITE, CARMEN D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3714

DATE MAILED: 10/06/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,949

Applicant(s)

TARANTINO, ELIA ROCCO

Examiner

Carmen D. White

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39-41, 43-47 and 49-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Leake (5,624,119).

Regarding claims 39-41, 43-47 and 49-50, Leake teaches a method of playing a game that comprises the steps of accepting a wager; displaying a matrix of m x n dimensions; displaying main symbols that are randomly generated images; comparing the main symbols to the player symbols; indicating any matches; and declaring a winning outcome (abstract; Fig. 6 and Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 29-38, 42 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Leake** (5,624,119) in view of **Makovic et al** (4,443,012).

Regarding claims 29-38, 42 and 48, Leake teaches a method of playing a game that comprises the steps of accepting a wager; displaying a matrix of m x n dimensions;

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displaying main symbols that are randomly generated images; comparing the mains symbols to the player symbols; indicating any matches; and declaring a winning outcome (abstract; Fig. 6 and Fig. 1). While Leake teaches variations in the presentation of symbol images (different shape sizes of images- see Fig. 1; Fig. 3 and 5), Leake lacks disclosing the images being that of die. However, in an analogous gaming system that utilizes indicia on cards, Makovic teaches this feature. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature as taught by Leake in Makovic to further provide variety in the system; thus, resulting in increased popularity and sales of the game.

Examiner's Response to Applicant's Remarks

Applicant argues that Leake does not disclose comparing called symbols based upon specific position. Applicant further asserts that Leake does not disclose comparing a first row or set of symbols to a first row of player symbols. The examiner disagrees with Applicant's argument. Leake, as Applicant acknowledges, teaches a bingo game in which symbols are in rows and columns. In Bingo, the position of a number in a particular row is determined and compared in order to ensure that the user has obtained a proper bingo win. Therefore, Leake teaches comparing called symbols based upon position. Further, symbol indicia of a particular row of the player's card are compared with called game indicia in order to produce a win. Applicant has not stated that "all" symbols in a row are compared.

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It is not clear to the examiner, from the claim language, how Applicant's instant claimed invention differs from the bingo-type gaming system of Leake. Therefore the examiner maintains the rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers

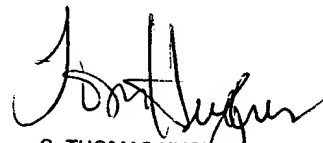
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for the organization where this application or proceeding is assigned are 703-308-7768 for Non-official communications and 703-305-3579 for Official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



cdw



S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700